

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Proposed Rule LSA Document #05-144

DIGEST

Adds 50 IAC 22 to establish procedures for application and administration of the investment deduction established by P.L.193-2005 (SEA 1-2005). Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

The Department cannot accurately estimate the number of small businesses that will be directly affected by the investment deduction governed by this rule. The investment deduction provided under IC 6-1.1-12.4 and implemented by this rule will be available for a majority of small businesses that make a qualified investment within Indiana by developing, redeveloping, or rehabilitating real property or purchasing new personal property. Certain facilities are expressly excluded from this deduction by statute, and a listing of those facilities can be found at IC 6-1.1-12.1-3(e).

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Department estimates that this rule will require minimal reporting, record keeping, or administrative costs of small businesses seeking to receive the investment deduction. A small business seeking the deduction would have to file either Form RPID-1 with the township assessor or a Schedule PPID-1 attached to their annual personal property return.

Estimated Total Annual Economic Impact on Small Businesses:

The Department estimates that there will be minimal impact on small businesses as a result of compliance with this rule.

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: There are no compliance costs that need to be justified for this proposed rule. Small businesses will be required to file a form to claim the deduction, and completion of said form should result in minimal administrative cost.
- Supporting Data, Studies, and Analyses: The Department reviewed the Fiscal Impact Statement for Senate Enrolled Act 1-2005 (P.L.193-2005), prepared by Legislative Services Agency. The Department has not relied on any other formal studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

Due to the fact that this rule is mandated by P.L.193-2005 (SEA 1-2005), the Department has performed minimal analysis of alternatives to this proposed rule.

- Explanation of Preliminary Determination: The adoption of this rule was mandated by P.L.193-2005 (SEA 1-2005) to implement investment deduction.
- Supporting Data, Studies, and Analyses: The Department reviewed the Fiscal Impact Statement for Senate Enrolled Act 1-2005 (P.L.193-2005), prepared by Legislative Services Agency. The Department did not rely on any other formal studies in its decision not to employ alternatives to rulemaking.

50 IAC 22

SECTION 1. 50 IAC 22 IS ADDED TO READ AS FOLLOWS:

ARTICLE 22. INVESTMENT DEDUCTION

Rule 1. General Provisions

50 IAC 22-1-1 Purpose

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4

Sec. 1. The purpose of this article is to establish formal procedures to govern the application and administration of the investment deduction established under IC 6-1.1-12.4. The:

- (1) procedures;**
- (2) procedural requirements; and**
- (3) standards;**

established by this article are intended to ensure that the investment deduction is properly administered.
(Department of Local Government Finance; 50 IAC 22-1-1)

50 IAC 22-1-2 Applicability

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4

Sec. 2. This article applies to taxpayers applying for and local assessing officials exercising authority under IC 6-1.1-12.4 in administering the investment deduction applicable to real and personal property.
(Department of Local Government Finance; 50 IAC 22-1-2)

Rule 2. Definitions

50 IAC 22-2-1 Applicability

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4

Sec. 1. The definitions in this rule apply throughout this article. *(Department of Local Government Finance; 50 IAC 22-2-1)*

50 IAC 22-2-2 “Creates or retains employment” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4

Sec. 2. (a) For real property, “creates or retains employment” means a development, redevelopment, or rehabilitation of the real property that:

- (1) produces new jobs that were not previously performed; or**
- (2) maintains existing jobs performed at a level equal to at least the number of jobs before the development, redevelopment, or rehabilitation of the real property;**

by employees of the owner of the real property in Indiana. The term may also refer to a development, redevelopment, or rehabilitation of real property that keeps an existing business in operation that otherwise would have ceased to maintain operations in Indiana without the development, redevelopment, or rehabilitation even though the total number of jobs that exists after the development, redevelopment, or rehabilitation may be less than before the development, redevelopment, or rehabilitation occurred.

(b) For personal property, “creates or retains employment” means a purchase of personal property other than inventory that:

- (1) produces new jobs that were not previously performed; or**
- (2) maintains existing jobs performed at a level equal to at least the number of jobs before the purchase of the personal property;**

by employees of the owner of the personal property in Indiana. The term may also refer to a purchase of personal property other than inventory that keeps an existing business in operation that otherwise would have ceased to maintain operations in Indiana without the purchase of the personal property, even though the total number of jobs that exists after the purchase of the personal property may be fewer than before the purchase of personal property occurred. *(Department of Local Government Finance; 50 IAC 22-2-2)*

50 IAC 22-2-3 “Department” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4; IC 6-1.1-30-1.1

Sec. 3. “Department” means the department of local government finance. *(Department of Local*

Government Finance; 50 IAC 22-2-3)

50 IAC 22-2-4 “Development” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-6

Sec. 4. “Development” means construction that improves a parcel of land. *(Department of Local Government Finance; 50 IAC 22-2-4)*

50 IAC 22-2-5 “Inventory” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-3

Sec. 5. “Inventory” has the meaning set forth in 50 IAC 4.2-5-1. *(Department of Local Government Finance; 50 IAC 22-2-5)*

50 IAC 22-2-6 “Investment deduction” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4

Sec. 6. “Investment deduction” means the deduction for real or personal property provided in IC 6-1.1-12.4. *(Department of Local Government Finance; 50 IAC 22-2-6)*

50 IAC 22-2-7 “Official” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-1; IC 6-1.1-12.4-6

Sec. 7. “Official” means any of the following:

- (1) A county auditor.**
- (2) A county assessor.**
- (3) A township assessor.**

(Department of Local Government Finance; 50 IAC 22-2-7)

50 IAC 22-2-8 “Personal property” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-1-11; IC 6-1.1-12.4

Sec. 8. “Personal property” has the meaning set forth in IC 6-1.1-1-11, except, for purposes of this article, the term excludes inventory. *(Department of Local Government Finance; 50 IAC 22-2-8)*

50 IAC 22-2-9 “Purchase” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-3

Sec. 9. “Purchase” means the act of obtaining title to real or personal property. A person is deemed to be obtaining title to the property if:

- (1) title to the property is in the person’s name; or**
- (2) the person has assumed a legal obligation to pay the property taxes on the property.**

(Department of Local Government Finance; 50 IAC 22-2-9)

50 IAC 22-2-10 “Real property” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-1-15; IC 6-1.1-12.4

Sec. 10. “Real property” has the meaning set forth in IC 6-1.1-1-15, except, for purposes of this article, the term excludes land. *(Department of Local Government Finance; 50 IAC 22-2-10)*

50 IAC 22-2-11 “Redevelopment” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-6; IC 6-1.1-12.1-1

Sec. 11. “Redevelopment” means the construction of new improvements on either of the following:

(1) Unimproved real estate.

(2) Real estate upon which a prior existing improvement is demolished to allow for new construction.

(Department of Local Government Finance; 50 IAC 22-2-11)

50 IAC 22-2-12 “Rehabilitation” defined

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-6

Sec. 12. “Rehabilitation” means either of the following:

(1) The remodeling, repair, or betterment of property in any manner.

(2) Any enlargement or extension of an improvement.

(Department of Local Government Finance; 50 IAC 22-2-12)

Rule 3. Property Eligible for the Investment Deduction

50 IAC 22-3-1 Real property eligible

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.1-3; IC 6-1.1-12.4-2

Sec. 1. (a) In order to be eligible for the investment deduction:

(1) real property must meet the requirements of IC 6-1.1-12.4-2; and

(2) the real property owner must timely file a notice to claim the investment deduction.

(b) The investment deduction does not apply to a facility listed in IC 6-1.1-12.1-3(e).

(c) For purposes of the limitation of the investment deduction to two million dollars (\$2,000,000) in assessed value for real property for the assessment year, a real property owner is limited to a total two million dollar (\$2,000,000) deduction in assessed value for all eligible development, redevelopment, or rehabilitation on all real property owned within a county. The two million dollar (\$2,000,000) limitation of the investment deduction shall not be applied individually to each parcel of property owned within a county by the real property owner. *(Department of Local Government Finance; 50 IAC 22-3-1)*

50 IAC 22-3-2 Personal property eligible

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-3

Sec. 2. (a) In order to be eligible for the investment deduction:

(1) personal property must meet the requirements of IC 6-1.1-12.4-3; and

(2) the personal property owner must claim the investment deduction on a timely filed:

(A) annual; or

(B) amended;

personal property tax return.

(b) For purposes of the limitation of the investment deduction to two million dollars (\$2,000,000) in assessed value for personal property for the assessment year, a personal property owner is limited to a total two million dollar (\$2,000,000) deduction in assessed value for all eligible personal property owned within the county. The two million dollar (\$2,000,000) limitation of the investment deduction shall not be applied individually to each personal property return filed in the county by the personal property owner. *(Department of Local Government Finance; 50 IAC 22-3-2)*

50 IAC 22-3-3 Ineligibility of property located in an allocation area

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4; IC 6-1.1-21.2-3

Sec. 3. Real property and personal property located in an area that has been designated as an allocation area, as defined in IC 6-1.1-21.2-3, are not eligible for the investment deduction. *(Department of Local Government Finance; 50 IAC 22-3-3)*

50 IAC 22-3-4 Other deductions may not be claimed in conjunction with investment deduction

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-5

Sec. 4. If the investment deduction has been claimed for an assessment year, all other statutory deductions as set forth in IC 6-1.1-12.4-5 shall not be claimed on the:

- (1) development, redevelopment, or rehabilitation of real property; or**
- (2) purchase of personal property;**

subject to the investment deduction. *(Department of Local Government Finance; 50 IAC 22-3-4)*

Rule 4. Length of Investment Deduction

50 IAC 22-4-1 Length of investment deduction for real property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2

Sec. 1. The investment deduction on eligible real property:

- (1) is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs; and**
- (2) continues for the following two (2) years.**

(Department of Local Government Finance; 50 IAC 22-4-1)

50 IAC 22-4-2 Length of investment deduction for personal property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2 The investment deduction on eligible personal property:

- (1) is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs; and**
- (2) continues for the following two (2) years.**

(Department of Local Government Finance; 50 IAC 22-4-2)

Rule 5. Amount of Investment Deduction

50 IAC 22-5-1 Amount of investment deduction for real property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-2

Sec. 1. The annual amount of the investment deduction on eligible real property is calculated using the formula set forth in IC 6-1.1-12.4-2(c). *(Department of Local Government Finance; 50 IAC 22-5-1)*

50 IAC 22-5-2 Amount of investment deduction for personal property

Authority: IC 6-1.1-12.4-13
Affected: IC 6-1.1-12.4-3

Sec. 2. The annual amount of the investment deduction on eligible personal property is calculated using the formula set forth in IC 6-1.1-12.4-3(c). *(Department of Local Government Finance; 50 IAC 22-5-2)*

Rule 6. Effect of Assessment Changes on the Investment Deduction

50 IAC 22-6-1 Decreases in assessed value

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-3

Sec. 1. If the assessed value of real property or personal property receiving the investment deduction is subsequently decreased as the result of an appeal, or by other action of an assessing official, the amount of the investment deduction shall be adjusted by the township assessor to reflect the percentage decrease that results from the change and submitted to the county auditor. Other actions of an assessing official include, but are not limited to, the following:

(1) General reassessment.

(2) Annual adjustments.

(3) The processing of an amended personal property return.

(Department of Local Government Finance; 50 IAC 22-6-1)

50 IAC 22-6-2 Increases in assessed value

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-3

Sec. 2. If the assessed value of real property or personal property receiving the investment deduction is subsequently increased as the result of an appeal, or by other action of an assessing official, the amount of the investment deduction shall be adjusted by the township assessor to reflect the percentage increase that results from the change and submitted to the county auditor. Other actions of an assessing official include, but are not limited to, changes made to the assessment as a result of any of the following:

(1) A general reassessment.

(2) An annual adjustment.

(3) The processing of an amended personal property return.

(Department of Local Government Finance; 50 IAC 22-6-2)

Rule 7. Claiming the Investment Deduction

50 IAC 22-7-1 Procedure for claiming the investment deduction on real property

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-4-22

Sec. 1. (a) A property owner must claim the real property investment deduction by completing a notice on Form RPID-1 for each year the investment deduction is claimed.

(b) Form RPID-1 is available:

(1) from the county assessor; and

(2) on the department's Web site at www.in.gov/dlgf/.

(c) The completed Form RPID-1 is to be filed with the township assessor of the township in which the property is located. The completed Form RPID-1 must be filed:

(1) by May 10 of each year; or

(2) within thirty (30) days of receipt of a notice of new assessment or reassessment given under IC 6-1.1-4-22;

whichever is later. *(Department of Local Government Finance; 50 IAC 22-7-1)*

50 IAC 22-7-2 Procedure for claiming the investment deduction on personal property

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-3

Sec. 2. (a) A property owner must claim the personal property investment deduction by completing Schedule PPID-1 and attaching that schedule to a timely filed:

(1) personal; or

(2) amended personal;

property tax return.

(b) Schedule PPID-1 is available:

(1) at the offices of the:

(A) county assessor; and

(B) township assessor; and

(2) on the department's Web site at www.in.gov/dlgf/.

(c) The completed Schedule PPID-1 shall be:

(1) attached to the property owner's:

(A) personal; or

(B) amended personal;

property tax return; and

(2) filed with the township assessor of the township in which the property is located.

(Department of Local Government Finance; 50 IAC 22-7-2)

Rule 8. Duties of the Township Assessor

50 IAC 22-8-1 Processing of real property investment deduction

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2

Sec. 1. (a) A township assessor receiving a Form RPID-1 from a property owner shall inform the county auditor of the following:

(1) The real property eligible for the investment deduction as contained in the notice filed by the taxpayer.

(2) The investment deduction amount.

(b) The township assessor shall accomplish the tasks referenced in subsection (a) by doing the following:

(1) Completing the township assessor's section of the RPID-1.

(2) Sending a duplicate of the completed form to the county auditor:

(A) not later than July 1 of the assessment year; or

(B) within thirty (30) days after receipt of a properly filed application;

whichever is later.

(Department of Local Government Finance; 50 IAC 22-8-1)

50 IAC 22-8-2 Processing of personal property investment deduction

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-3

Sec. 2. (a) A township assessor receiving a Schedule PPID-1 attached to a property owner's annual personal property tax return or amended personal property tax return shall do the following:

(1) Identify the personal property eligible for the investment deduction.

(2) Inform the county auditor of the investment deduction amount.

(b) The township assessor shall accomplish the tasks referenced in subsection (a) by doing the following:

(1) Completing the appropriate section of the first page of the:

(A) personal property return (Form 102 or 103); or

(B) amended personal property return.

(2) Sending a duplicate of the first page to the county auditor:

(A) not later than July 1 of the assessment year; or

(B) within thirty (30) days after receipt of a properly filed schedule;

whichever is later.

(Department of Local Government Finance; 50 IAC 22-8-2)

Rule 9. County Auditor's Responsibilities

50 IAC 22-9-1 Application of real property investment deduction

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2

Sec. 1. A county auditor receiving a completed Form RPID-1 from a township assessor shall do the following:

- (1) Make the investment deduction in the amount certified by the township assessor.**
- (2) Notify the county property tax board of appeals of the amount of the investment deduction granted.**

(Department of Local Government Finance; 50 IAC 22-9-1)

50 IAC 22-9-2 Application of personal property investment deduction

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-3

Sec. 2. A county auditor receiving the first page of a personal property tax return (Form 102 or 103) showing a personal property investment deduction from a township assessor shall do the following:

- (1) Make the investment deduction in the amount certified by the township assessor.**
- (2) Notify the county property tax board of appeals of the amount of the investment deduction granted.**

(Department of Local Government Finance; 50 IAC 22-9-2)

Rule 10. Appeal Rights

50 IAC 22-10-1 Appeal rights of officials

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4

Sec. 1. (a) An official may review an investment deduction to determine whether the property has created or retained jobs as set forth in IC 6-1.1-12.4-6 and this article.

(b) An official who determines that the creation or retention of employment has not occurred shall follow the notification and hearing procedures outlined in IC 6-1.1-12.4-6 through IC 6-1.1-12.4-9.

(c) The review referenced in subsection (a) is only to determine the eligibility of property for the investment deduction. An official may not use the statutory procedure in IC 6-1.1-12.4-6 through IC 6-1.1-12.4-9 to appeal the amount of the investment deduction. *(Department of Local Government Finance; 50 IAC 22-10-1)*

50 IAC 22-10-2 Appeal rights of taxpayers

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-10

Sec. 2. If a property owner receives notice from an official that disallows in whole or in part the amount of the investment deduction claimed on either a Form RPID-1 or Schedule PPID-1, the total or partial disallowance:

- (1) shall be treated as a termination; and**
- (2) may be appealed under IC 6-1.1-12.4-10.**

(Department of Local Government Finance; 50 IAC 22-10-2)

Rule 11. Change of Ownership

50 IAC 22-11-1 Change of ownership

Authority: IC 6-1.1-12.4-13

Affected: IC 6-1.1-12.4-2; IC 6-1.1-12.4-3

Sec. 1. (a) If there is a change in ownership of property that has been granted an investment deduction, the investment deduction shall continue to apply to the property.

(b) The amount of the investment deduction on the property shall continue to be calculated using the formula set forth in:

(1) IC 6-1.1-12.4-2; or

(2) IC 6-1.1-12.4-3.

(Department of Local Government Finance; 50 IAC 22-11-1)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 2, 2005 at 10:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room N1045, Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on a proposed new rule governing the application and administration of the investment deduction provided in IC 6-1.1-12.4.

This proposed rule does not impose any requirement or costs on a regulated entity not expressly required by state or federal law.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058(B) and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Dart
General Counsel
Department of Local Government Finance